

Applicant : Ronald P. Knockeart et al.
Serial No. : 10/675,627
Filed : September 30, 2003
Page : 6 of 9

Attorney's Docket No.: 09650-005010 / 2003P13044US

REMARKS

Below, the applicant's comments are preceded by related remarks of the examiner set forth in small bold type.

Claims 29-37 are rejected under 35 USC 102(e) as being anticipated by Smith et al. '827.

The patent to Smith et al. discloses a Navigational system that uses vehicles with GPS devices as probe vehicles to find current traffic conditions and congestion to provide other users with data to map route segments that are speed sensitive from one location to another, as disclosed in column 3.

Independent claim 29

Independent claim 29 has been amended to include the limitations of claim 30. Claim 29 now recites in part "enabling a subset of an available set of probe vehicles to provide traffic related data; [and] receiving traffic related data from the enabled subset of probe vehicles." The office action rejects the claim over Smith (U.S. Pat. 5, 774,827) as reproduced above. The applicant notes, however, that Smith merely discloses a portable device that can transmit a present position of the portable device to a central facility to allow the central facility to calculate current traffic conditions and does not disclose or suggest all the limitations recited in the claim.

The office action does not identify how it proposed that Smith provides the feature of "enabling a subset of an available set of probe vehicles" as required by the claim. Smith states "each portable device 12 with a GPS unit 58 acts as a probe in the traffic flow of central facility 12" (col. 3, lines 41-43, emphasis added). Smith makes no suggestion that any subset of such portable devices are expressly enabled to provide data. As stated in the specification of the current application, page 65, paragraph 273, enabling a subset of probe vehicles can, for example, limit the rate at which a server system receives data from probe vehicles, or to allow the server system to receive data related to particular regions or roadways.

Smith also does not disclose receiving "traffic related data" from such probe vehicles. In Smith, the probe vehicles "transmit[] a present position of the portable device" (col. 3, line 38)

Applicant : Ronald P. Knockeart et al.
Serial No. : 10/675,627
Filed : September 30, 2003
Page : 7 of 9

Attorney's Docket No.: 09650-005010 / 2003P13044US

(emphasis added). Such a present position is not "traffic related data" as recited in the claim. In Smith, the traffic information is derived at the central facility by "matching multiple positions of the portable device with known positions on the preselected route and measuring the time between two consecutive matched positions" (col. 3, lines 43-47).

Claims that depend on claim 29

Claims 31 and 32 are patentable for at least the same reasons as claim 29

Furthermore, Smith does not disclose or suggest "enabling probe vehicles according to [a] part of the database that is targeted," as recited in claim 31, or "enabling vehicles according to a likelihood that they are in [a] geographic area," as recited in claim 32.

Independent claim 33 and its dependent claims

Claim 33 has been amended to include some of the limitations of claim 34. Smith does not disclose or suggest "at an in-vehicle system, accepting from the user a specification of a path made up of one or more road segments in a road network; [and] transmitting the specification from the in-vehicle system to a server system," as recited in amended claim 33. What Smith discloses is a central facility 14 that stores preselected commuter routes in a memory, in which the preselected commuter routes are obtained from the user's registration information (col. 1, line 67 to col. 2, line 3). Smith does not disclose or suggest an in-vehicle system that can accept a specification of a path from the user.

Claims 35-37 are patentable for at least the same reasons as claim 33.

New claims 38-48

New claims 38-48 have been added. They are supported by paragraphs 155-167, 273-277 of the specification of the current application and are patentable over Smith. For example, Smith does not disclose or suggest planning a route through a road network, and monitoring traffic condition along the route by receiving traffic related data from vehicles on the route, as required by claim 38. Smith merely discloses selecting one of preselected commuter routes that are

Applicant : Ronald P. Knockeart et al.
Serial No. : 10/675,627
Filed : September 30, 2003
Page : 8 of 9

Attorney's Docket No.: 09650-005010 / 2003P13044US

obtained from a user's registration information, and receiving position information from vehicles equipped with GPS units (col. 1, line 67 to col. 2, line 3, and col. 3, lines 41-44 and lines 56-58).

Smith also does not suggest or disclose "planning an updated route to the destination location taking into account of the exceptional traffic condition," as recited in claim 39, "enabling a subset of an available set of probe vehicles to provide traffic related data," as recited in claim 40, or "enabling vehicles according to a likelihood that they are on the planned route," as recited in claim 41.

Furthermore, Smith does not disclose or suggest "polling the subset of vehicles to receive logged traffic data," as recited in claim 42, "polling vehicles for which planned routes have recently been provided and are expected to have logged traffic related data for road segments on those routes," as recited in claim 43, "broadcasting messages to the subset of vehicles," as recited in claim 44, "providing instructions to the vehicles on when communicate with a server system to provide traffic related data," as recited in claim 45, "providing planned routes to the vehicle accompanied by the instructions [on when communicate with a server system to provide traffic related data]," as recited in claim 46, "requesting the vehicles for logged traffic data when the vehicles communicates with a server system to request route planning service," as recited in claim 47, or "providing planned routes to vehicles, the planned routes including data related to an expected traffic condition, and the vehicles report traffic related data when the actual traffic condition deviates from the expected traffic condition," as recited in claim 48.

The cancelled claims have been cancelled without prejudice.

That fact that the applicant has stated arguments in response to positions of the examiner does not mean that the applicant concedes any other positions of the examiner. The fact that the applicant has stated certain arguments for the patentability of certain claims does not mean that there are not other reasons for the patentability of those claims or of other claims.

Please apply \$110 for the Petition for Extension of Time fee, and any other charges to deposit account 06-1050, referencing attorney docket 09650-005010.

OCT. 14. 2004 9:11PM

(3) FISH & RICHARDSON 6175428906

NO. 3897 P. 11/14

Applicant : Ronald P. Knockeart et al.
Serial No. : 10/675,627
Filed : September 30, 2003
Page : 9 of 9

Attorney's Docket No.: 09650-005010 / 2003P13044US

Respectfully submitted,

Date: 10/14/2004

Rex Huang
Rex Huang* for
J. Robin Rohlicek, Reg. No. 43,349

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

** See attached document certifying that Rex Huang has limited recognition to practice before the U.S. Patent and Trademark Office under 37 CFR § 10.9(b).*

**BEFORE THE OFFICE OF ENROLLMENT AND DISCIPLINE
UNITED STATES PATENT AND TRADEMARK OFFICE**

LIMITED RECOGNITION UNDER 37 CFR § 10.9(b)

Rex Huang is hereby given limited recognition under 37 CFR § 10.9(b) as an employee of the Fish & Richardson P.C. law firm to prepare and prosecute patent applications wherein the patent applicant is the client of the Fish & Richardson P.C. law firm, and the attorney or agent of record in the applications is a registered practitioner who is a member of the Fish & Richardson P.C. law firm. This limited recognition shall expire on the date appearing below, or when whichever of the following events first occurs prior to the date appearing below: (i) Rex Huang ceases to lawfully reside in the United States, (ii) Rex Huang's employment with the Fish & Richardson P.C. law firm ceases or is terminated, or (iii) Rex Huang ceases to remain or reside in the United States on an H1B visa.

This document constitutes proof of such recognition. The original of this document is on file in the Office of Enrollment and Discipline of the United States Patent and Trademark Office.

Expires: January 1, 2005



Harry I. Moatz
Director of Enrollment and Discipline